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# 5A

## Action

### *Legislative Committee*

#### Legislative Proposals and Concepts

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**Executive Summary:** This agenda item presents legislative proposals and concepts for the 2017 legislative year for Commission consideration.

**Recommended Action:** That the Commission approve the legislative proposals presented in this agenda item for Commission sponsorship and direct staff to seek authors for the proposals; that the Commission review and provide direction regarding the legislative concepts presented for discussion.

**Presenter:** Joshua Speaks, Governmental Relations & Public Affairs Manager, Administrative Services Division

#### Strategic Plan Goal

#### *III Communication and Engagement*

- d) Advise the Governor, Legislature, and other policy makers regarding issues affecting the quality, preparation, certification, and discipline of the education workforce.

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# Legislative Proposals for Commission Consideration

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## *Sex Offenses*

### **Proposal**

Education Code section 44010 specifies what constitutes a “sex offense” for the purposes of the Education Code, including the licensing and disciplinary work of the Commission. This code section has not been amended since 2004, during which time the Penal Code has seen multiple additions and amendments. Several of these Penal Code changes involve sex offenses involving minors and are not reflected in the Education Code. This proposal would amend section 44010 to include these missing Penal Code sections (listed below), as well as any other sex offenses involving minors that may be identified as this proposal moves forward.

### **Current Law**

Education Code section 44010 sets forth what constitutes a “sex offense” for purposes of specific sections of the Education Code, including sections 44346 and 44425, which provide for immediate denial or revocation of credentials by the Commission. The other listed sections (44020, 44237, 44436, 44836, and 45123) pertain to educational employers and private schools that could also be impacted by an amendment of section 44010.

Section 44010 is also cross-referenced in other sections of the Education Code including, most importantly, section 44940, which requires the Commission to automatically suspend an employee’s teaching or service credential when the Commission has been notified that an employee has been charged with a sex offense as defined in section 44010.

Sex offenses not currently listed in section 44010 include the following sections of the Penal Code:

- 269 Aggravated sexual assault of a child
- 288.2 Harmful matter sent with intent to seduce a minor
- 288.3 Contacts minor with the intent to commit specified offenses
- 288.4 Arrangement of meeting with minor for lewd/lascivious behavior
- 288.7 Sexual acts with child 10 years or younger

Although the above-listed offenses, except Penal Code section 269, constitute mandatory denial or revocation offenses (mandatories) pursuant to Education Code sections 44346.1 and 44424, those who have been charged with these offenses cannot be automatically suspended because these charges are not included in Education Code section 44010.

### **Reason/Need for Proposal**

Under current law, not all sex offenses result in an automatic suspension of credentials by the Commission. This may lead to situations in which a person charged with a sexual offense can

remain in the classroom until the disposition of his or her case. Even if an employer takes action to suspend the employee, without action to suspend his or her credential, the credential holder may be able to move to another employer and re-enter an educational setting.

#### **Results of Administrative Avenues, if any, Attempted to Resolve the Problem**

This issue is statutory and cannot be resolved through administrative action.

#### **Consequence if Law is Not Changed**

Educators charged with sexual offenses against minors will potentially remain in contact with students.

#### **Education Code Section(s) Affected**

Education Code section 44010 which defines “sex offense” for Education Code purposes would be directly impacted. Education Code sections 44020, 44237, 44346, 44425, 44436, 44836, and 45123 would be indirectly affected as they either reference 44010 or are referenced by it.

#### **Cost Analysis**

No additional costs have been identified. It is important to note that this legislative change would not impact any criminal definitions for Penal Code purposes, create any new crimes, or any new criminal punishments. This change would merely bring Education Code into conformity with changes that have already been enacted in the Penal Code.

#### **Possible Support and/or Opposition**

##### ***Support***

None identified at this time, however, student advocacy groups would likely support this change.

##### ***Opposition***

None identified at this time.

### ***Reading Instruction Competence Assessment (RICA)***

#### **Proposal**

This proposal would amend Education Code section 44283 to remove a reference to the outdated “Reading Program Advisory” published by the Department of Education in 1996. The proposal would also replace references to “reading” with references to “literacy.”

#### **Current Law**

The Education Code recognizes the importance of teacher competence in reading instruction and requires the Commission to develop a reading instruction competence assessment to measure the knowledge, skill, and ability of first-time credential applicants who are not credentialed in any other state. All candidates for multiple subject credentials and the majority of education specialist credentials are required to pass this assessment, commonly known as RICA. RICA is tied

in statute to the state's reading curriculum framework as adopted after July 1, 1996 and to a specific *Reading Program Advisory* published by the Department of Education in 1996.

### **Reason/Need for Proposal**

Linking RICA to the state's most current reading curriculum framework ensures that the assessment remains aligned with state education policy and curriculum standards. The Advisory referenced in statute was published in 1996 and is now out of date. This reference should be removed to ensure consistency in state policy and remove confusion about the expectations of teachers with regard to reading instruction.

In addition, changing the language of the statute from "reading" to "literacy" would widen its scope to include other important aspects of competence in English language arts like writing skills. Such a change would reflect current educational understanding that literacy skills are interconnected, and must be developed in integration with each other. Since the RICA was last updated in 2009, California has adopted the [Common Core State Standards](#) and updated the California [English Language Development Standards](#). Most recently, in July 2014, the State Board of Education adopted the [English Language Arts/English Language Development Framework for California Public Schools](#), which provides guidance for implementation of both the Common Core State Standards in English Language Arts/Literacy and the California English Language Development Standards. All of these updated documents reflect the current understanding that literacy is an interdependent field, and that proper reading skills cannot be developed in isolation from other aspects of literacy development.

### **Results of Administrative Avenues, if any, Attempted to Resolve the Problem**

This issue is statutory and cannot be resolved through administrative action.

### **Consequence if Law is Not Changed**

If the statute is not changed, the RICA assessment will remain tied to a specific reading advisory that is no longer in circulation, and focused on the narrow topic of reading and will not reflect current educational best practices.

### **Education Code Section(s) Affected**

Education Code section 44283, requiring the Commission to create and administer RICA, would be amended by this proposal.

### **Cost Analysis**

These amendments would not immediately require an update to RICA, and would therefore not create any additional costs for the Commission at this time. If the Commission were to choose to update RICA subsequent to these changes taking effect, staff would assess the cost of updates at that time. As is the case with the Commission's examinations, work can be paid for by extending the contract with the testing contractor or the work can be paid for up front.

## **Possible Support and/or Opposition**

### ***Support***

None identified at this time.

### ***Opposition***

None identified at this time.

## **Additional Issues Consideration**

In addition to the proposal language articulated above, two further issues related to RICA are presented for the Commission's consideration. First, taken together, Education Code sections 44283 and 44283.2 require multiple subject credential holders and education specialists (excepting Early Childhood Special Education credential holders) who are first-time credential holders to pass RICA. In some instances, this means that not all teachers who may be teaching reading to K-12 students are required to take and pass RICA. Some examples include:

- Title 5 §80071.5 exempts any teacher who (a) holds a bachelor's degree, (b) has completed a teacher preparation program, and (c) completed student teaching from having to pass the RICA when applying for either a Multiple Subject or an Education Specialist teaching credential. Based on this regulation, any single subject teacher who subsequently earns an Education Specialist teaching credential would not be required to pass RICA even though he or she might be teaching reading to K-12 students.
- A teacher who holds an Education Specialist ECSE teaching credential (exempted by Education Code §44283.2) who then completes either a Multiple Subject or an Education Specialist teaching credential (exempted by Title 5 §80071.5) would also be exempted from passing RICA.

The Commission should consider whether to remove the phrase "first time" from the RICA statute, which would make it clear that ALL teachers who apply for a multiple subject or education specialist credential must pass RICA whether or not it is a first time or subsequent credential.

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## Legislative Concepts for Commission Consideration

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In addition to the proposals identified above, Commission staff have identified a series of concepts that may merit further examination by the Commission. Staff requests the Commission discuss these concepts and if interested in the concept, authorize further exploration and discussion of these concepts with relevant stakeholders.

### ***Foreign Transcript Evaluations***

#### **Proposed Concept**

Staff proposes that the Commission consider amending the law to allow the Commission to determine that a country has academic and credentialing standards equivalent to those of regionally accredited institutions in the United States, and allowing applicants from those countries to forego a foreign transcript evaluation by the Commission or an approved evaluator.

#### **Discussion**

Education Code section 44275.4 allows individuals who have completed a teacher preparation program outside of the United States to apply to the Commission for a credential on the basis of that preparation. In order to do so, the Commission or an evaluating agency approved by the Commission must determine that the institution's coursework, programs, or degrees are equivalent to those offered by a regionally accredited institution in the United States.

Foreign transcript evaluations require an additional investment of time and expense on the part of a teacher who wants to come to the United States and teach in a California school. Moreover, it increases their uncertainty as to whether or not coming to California is a viable option. These factors may combine to create an unnecessary disincentive to recruiting qualified out-of-country educators to serve in California public schools. Many foreign countries have standards equal to or greater than US: Singapore, Canada, South Korea, and Finland, for example, are all known to be producers of high quality teachers. If the Commission were authorized to examine national academic and credentialing standards and judge them to be equivalent to those of California, it would eliminate the additional time, uncertainty, and expense for teachers coming from these countries, while still allowing the Commission to examine teachers from non-approved countries on an individual basis.

### ***Designated Subjects Intern Credentials***

#### **Proposed Concept**

Staff proposes that the Commission consider redefining Preliminary Designated Subjects Career Technical Education and Preliminary Adult Education credentials as Intern credentials.

## **Discussion**

Currently, first time applicants for a Designated Subjects credential in Career Technical Education or Adult Education receive a Preliminary credential. In order to qualify for a preliminary credential, a candidate must satisfy the basic skills requirement, submit proof of a high school diploma or equivalent, complete an application and submit the fee, undergo a background check, be recommended by a program sponsor, and satisfy the relevant experiential requirement. The candidates do not complete teacher preparation until after they have received their initial credential. These credentialing requirements are far more similar in nature to the requirements for an intern credential than those for a preliminary credential in other fields. Redefining these preliminary credentials as intern credentials would not have any practical impact on the holder of such a credential. They would still be allowed to act as the teacher of record in an appropriate setting. However, it would more accurately reflect the nature of the qualifications of individuals holding the credential, and provide the public with a better understanding of which individuals have received full preparation for the classroom.

### ***Three Year Preliminary Credentials***

## **Proposed Concept**

Staff proposes that the Commission consider reducing the term of Preliminary credentials from five to three years.

## **Discussion**

California has long recognized the importance of new teacher and administrator induction. While teacher and administrator preparation programs provide the basic knowledge and skills required for entry into the profession, even the best prepared candidates will need ongoing support and mentoring as they transition into their new roles.

Current law assigns a five year term to Preliminary credentials. New teachers and administrators often wait one or more years before starting induction. This is not ideal for students whose classroom experience may be less than optimal because their beginning teacher or administrator has not had the strong mentoring and ongoing training necessary to develop their craft. The current term of the credential allows the credential holder up to five years to complete this important set of experiences designed to ground and strengthen them in their practice more quickly. Limiting the term of the Preliminary credential will ensure that credential holders begin induction earlier in their career.

It is important to note that even a three year term would allow Preliminary credential holders an extra year to complete induction if they are unable to do so in their first two years. If circumstances beyond their control, such as health issues or lack of employment, require even more time for completion, they can apply for an additional extension.

## ***Assignment Monitoring***

### **Proposed Concept**

The Commission should explore revisions to the assignment monitoring process that would allow more complete and timely monitoring of whether educators are properly credentialed for their positions.

### **Discussion**

In a recent audit examining whether districts in California are providing the minimum level of library services necessary for their students, the State Auditor issued a report recommending, among other things, that "...Teacher Credentialing should work with Education to identify potential misassignments by comparing annually the staffing information reported by school districts to Education against Teacher Credentialing's credential records." While the Department of Education stated in their response to the audit that this was not technically feasible as proposed by the auditors, the possibility remains that Commission and Department staff can collaborate to arrive at a solution that would allow for more frequent assignment monitoring.

While the report focused on services provided by teacher librarians, the problem of misassignments is much broader. Under current law, county superintendents are required to annually collect data and monitor educator assignments for California's lowest performing schools ranked in Deciles 1, 2 and 3 of the base Academic Performance Index (API). Additionally, one-quarter of all educator assignments within each county are annually monitored and reported. Practically speaking, this means that 70 percent of California schools are only reviewed for misassignments once every four years. While the recommendation of the Auditor may not be the only way of resolving this problem, it seems clear that such infrequent oversight is not ideal for the state's students.